

ORDINANCE NO. 2015- 111

AN ORDINANCE AMENDING CHAPTER 22, ARTICLE IV, DIVISION 4 OF THE
MUNICIPAL CODE TO RESTRICT NOT-FOR-PROFIT ORGANIZATIONS TO
SOLICIT FOR CONTRIBUTIONS AT INTERSECTIONS
TO ONE (1) TIME PER YEAR

WHEREAS, the Village of Westmont is a municipal corporation duly organized and operating pursuant to the laws of the State of Illinois; and

WHEREAS, presently, a not-for-profit organization may solicit for contributions at intersections with no restriction as to frequency; and

WHEREAS, it is recommended that the ordinance should be updated to allow a not-for-profit to solicit for contributions at intersections one time per year; and

WHEREAS, the Village Board of the Village of Westmont desires to update its Municipal Code to restrict solicitation at intersections by not-for-profit organizations to one-time per year, finding this will promote the health, safety and welfare of the Village of Westmont.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Westmont, DuPage County, Illinois, as follows:

Section 1: The above-stated Recitals are hereby restated and incorporated into this Section 1 as though fully set forth herein.

Section 2: The Village of Westmont Municipal Code, Chapter 22 “Businesses”, Article IV “Peddlers, Hawkers and Solicitors”, Division 4 “Solicitation for Charitable Purposes” is hereby amended as follows (amendment is indicated by shading and underlining):

Sec. 22-303. - Statewide fundraising drives—Application for permit to solicit contributions at intersections.

Any charitable organization registered with the attorney general in the manner provided by law may stand upon the streets or highways within the village at any intersection where all traffic is required to come to a full stop, for the purpose of soliciting contributions from the occupants of any vehicle as part of a statewide fundraising activity. The charitable organization is limited to one such charitable solicitation per year upon village streets or highways. The charitable organization shall be liable for any injuries to any person or property during the solicitation which is casually related to any act of ordinary negligence of the soliciting agency. Any person engaged in the act of solicitation shall be at least 16 years of age and shall wear a high visibility vest. Any charitable organization wishing to engage in such solicitation for contributions shall apply to the chief of police of the village for a permit. The application shall state the following facts, along with such other facts as may be required by the chief of police:

- (1) The name, address and telephone number of the organization.
- (2) The name, address and telephone number of a local representative of the organization or that person making the application.

- (3) Proof that the organization is registered with the attorney general.
- (4) A statement of the statewide fundraising activity of which the local solicitation effort is a part.
- (5) A certificate of insurance showing whether the organization is insured against any claims for injuries or damage to property which is causally related to an act of ordinary negligence of the soliciting agent acting on behalf of the organization. The village shall be named as an additional insured on such certificate of insurance.
- (6) The location or locations at which approval to solicit is being sought.
- (7) The days and times of days at which such solicitation is proposed to take place.
- (8) The number of persons proposed to solicit at each location.

(Code 1972, § 16-118)

State Law reference— Solicitation of charitable contributions upon highways within municipalities, 625 ILCS 5/11-1006.

Section 3: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict.

Section 4: This ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the Mayor and Board of Trustees of the Village of Westmont, DuPage County, Illinois, on this 25th day of June, 2015.

Ayes: 4 Nays: 0 Absent: 2

APPROVED:


Ronald J. Gunter, Mayor

ATTEST:


Virginia Szynski, Village Clerk



MEMORANDUM

TO: ALICJA RICHARDS, DEPUTY VILLAGE CLERK

CC: VIRGINIA SZYMSKI, VILLAGE CLERK
STEVE MAY, VILLAGE MANAGER

FROM: JOHN ZEMENAK, VILLAGE ATTORNEY

DATE: FEBRUARY 20, 2015

RE: VILLAGE ORDINANCE REGULATING SOLICITORS ON PUBLIC STREETS

Issue: Is the Village ordinance which regulates charitable solicitations compliant with State statute, and what restrictions does it impose on who can solicit funds on public streets?

Answer: The Village ordinance, Section 22-303, is enforceable as written and complies with State statute. The ordinance and State statute restricts the solicitations to charitable organizations soliciting funds as part of a “statewide fundraising activity.”

Analysis: Section 22-303, “Statewide fundraising drives – Application for permit to solicit contributions at intersections” of the Westmont Code of Ordinances governs and in summary, the relevant provisions provide as follows:

1. Solicitation on the public streets must be by a charitable organization registered with the attorney general (and proof of this registration is required).
2. The solicitation must be part of a “statewide fundraising activity of which the local solicitation effort is a part.”
3. The charitable agency must provide a certificate of liability insurance which names the Village as an additional insured.
4. A permit is required from the Village for this solicitation.

The requirements of the Village ordinance mirror the requirements of State statute, 625 ILCS 5/11-1006. The restrictions and requirements of the State statute were held constitutional in the case *People v. Tosch*, 114 Ill.2d 474 (1986).

The Illinois Attorney General issued an opinion in 1980 regarding the State statute and the ability of a municipality to vary the requirements of this statute. 1980 Ill.Atty.Gen.Op. 98. In this opinion, the Attorney General held that the statute prohibits local school groups and organizations such as local baseball teams from soliciting contributions on the public streets. Moreover, a municipality may not adopt an ordinance which would allow school groups or other

local groups to solicit funds on the public streets when such solicitation was not part of a statewide fundraising activity and the local group was not a registered charity with the Attorney General. Finally, the opinion held that the statute's reference to state highways meant all streets within the State and not just those under the exclusive jurisdiction of the State.

In conclusion, the Village must insist on strict compliance with its ordinance on charitable solicitation upon the public streets and may not allow local groups to solicit funds when the solicitation is not part of a statewide fundraising effort.

Please let me know if you have any questions about this memo.